

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

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|--------------------------------|---|------------------------------|
| MAWURAYRASSUNA | : | |
| EMMANUEL NOVIHO, | : | Civil Action No. 15-cv-03151 |
| Plaintiff | : | |
| | : | Jury Trial Demanded |
| v. | : | |
| | : | Honorable Jeffrey Schmehl |
| LANCASTER COUNTY PENNSYLVANIA: | | |
| SCOTT F. MARTIN, | : | |
| TODD E. BROWN, and | : | |
| CHRISTOPHER DISSINGER, | : | |
| Defendants | : | |

**DEFENDANT, CHRISTOPHER DISSINGER'S, MOTION FOR LEAVE TO
ATTACH SUPPLEMENTAL EXHIBIT TO
MOTION TO DISMISS PLAINTIFF'S COMPLAINT
PURSUANT TO RULE 12(b)(6)**

AND NOW comes Defendant, Christopher Dissinger (“Defendant Dissinger”), to move this Honorable Court for leave to attach a supplemental exhibit to his Motion to Dismiss Plaintiff’s Complaint Pursuant to Rule 12(b)(6) (Doc. 12) filed on or about July 17, 2015, and in support thereof avers as follows:

1. Plaintiff commenced this action by filing a Complaint with this Honorable Court on or about June 5, 2015.
2. Plaintiff’s Complaint alleges numerous civil rights claims pursuant to 42 U.S.C. § 1983 including, *inter alia*, allegations that Defendant Dissinger was involved in unlawful seizure, wrongful arrest and false imprisonment (Count 1).
3. Plaintiff also asserts that Defendant Dissinger commenced a malicious prosecution (Count 3).

4. Plaintiff further alleges that Defendant Dissinger engaged in a conspiracy with regard to the unconstitutional conduct alleged in Counts 1 and 3. (Count 4 and 5).

5. On or about July 17, 2015, Defendant Dissinger filed a Motion to Dismiss Plaintiff's Complaint Pursuant to Rule 12(b)(6) (Doc. 12) and Brief in Support thereof (Doc. 12-3).

6. In said Motion, Defendant Dissinger asserts that the Plaintiff's arrest was made with probable cause, thereby defeating Plaintiff's claims to false arrest, false imprisonment and unlawful seizure. Moreover, Plaintiff's claims for malicious prosecution must fail as the underlying criminal prosecution did not terminate favorably to Plaintiff. Moreover, Plaintiff's admission that the Lancaster District Attorney's Office was fully apprised of the events in question and signed off on the charges, coupled with the probable cause for the charges, precludes any claim for malicious prosecution against Defendant Dissinger as a matter of law.

7. At the time of the underlying criminal trial, Plaintiff was found guilty for the summary offenses of traveling too slow for conditions, traveling below the minimum speed limit and for moving his vehicle unsafely. *See, Exhibit "A"* to Defendant Dissinger's Motion to Dismiss (Doc. 12).

8. Following those convictions, Plaintiff filed a direct appeal to the Superior Court of Pennsylvania from the judgment of sentence imposed on January

27, 2015. In the most recent conference with the Court, the Court inquired into the status of the appeal of the summary offenses. While Defendant Dissinger maintains that the finding of guilt by the trial court on the summary offenses, having heard all the admissible evidence including the presence of heroin in Ms. West's system, is sufficient to enter judgment in favor of Defendants, Defendant Dissinger respectfully submits that affirmation of those convictions by the Superior Court removes all doubt regarding the probable cause element that is essential to all of Plaintiff's claims.

9. On February 17, 2016, the Superior Court issued a Non-Precedential Decision affirming the Trial Court's April 7, 2015, opinion.

10. Defendant Dissinger moves this Honorable Court for leave to attach the Superior Court decision affirming the Trial Court, and Trial Court Opinion upon which the Superior Court relies heavily as Exhibit "B" to his Motion to Dismiss filed on or about July 17, 2015 (Doc. 12). A true and correct copy of proposed Exhibit "B" is attached hereto.

WHEREFORE, Defendant, Christopher Dissinger, respectfully requests that this Honorable Court enter an order granting leave to Defendant Dissinger to attach the Superior Court decision, and corresponding trial court Opinion, of February 17, 2016, as Exhibit "B" for consideration by this Honorable Court in deciding the pending Motion to Dismiss (Doc. 12).

Respectfully submitted,

MARGOLIS EDELSTEIN

Date: February 18, 2016

By: /s/ Rolf E. Kroll
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PROOF OF SERVICE

I hereby certify that I served a copy of the foregoing on the following, via the US District Court ECF filing system at the address listed below:

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MARGOLIS EDELSTEIN

Date: February 18, 2016

By: /s/ Rolf E. Kroll